

§ 59.80

38 CFR Ch. I (7–1–09 Edition)

the Memorandum of Agreement documents (one for the State and two for VA). A sample is in § 59.170.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.80 Amount of grant.

(a) The total cost of a project (VA and State) for which a grant is awarded under this part may not be less than \$400,000 and, except as provided in paragraph (i) of this section, the total cost of a project will not exceed the total cost of new construction. The amount of a grant awarded under this part will be the amount requested by the State and approved in accordance with this part, not to exceed 65 percent of the total cost of the project except that:

(1) The total cost of a project will not include the cost of space that exceeds the maximum allowable space specified in this part, and

(2) The amount of the grant may be less than 65 percent of the total cost of the project if the State accepts less because VA did not have sufficient funds to award the full amount of the grant requested.

(b) The total cost of a project under this part for acquisition of a facility may also include construction costs.

(c) The total cost of a project under this part will not include any costs incurred before the date VA sent the State written notification that the application in § 59.20 was approved.

(d) The total cost of a project under this part may include administration and production costs, e.g., architectural and engineering fees, inspection fees, and printing and advertising costs.

(e) The total cost of a project under this part may include the cost of projects on the grounds of the facility, e.g., parking lots, landscaping, sidewalks, streets, and storm sewers, only if they are inextricably involved with the construction of the project.

(f) The total cost of a project under this part may include the cost of equipment necessary for the operation of the State home facility. This may include the cost of:

(1) Fixed equipment included in the construction or acquisition contract. Fixed equipment must be permanently affixed to the building or connected to

the heating, ventilating, air conditioning, or other service distributed through the building via ducts, pipes, wires, or other connecting device. Fixed equipment must be installed during construction. Examples of fixed equipment include kitchen and intercommunication equipment, built-in cabinets, and cubicle curtain rods; and

(2) Other equipment not included in the construction contract constituting no more than 10 percent of the total construction contract cost of the project. Other equipment includes: furniture, furnishings, wheeled equipment, kitchen utensils, linens, draperies, blinds, electric clocks, pictures and trash cans.

(g) The contingency allowance may not exceed five percent of the total cost of the project for new construction or eight percent for renovation projects.

(h) The total cost of a project under this part may not include the cost of:

(1) Land acquisition;

(2) Maintenance or repair work; or

(3) Office supplies or consumable goods (such as food, drugs, medical dressings, paper, printed forms, and soap) which are routinely used in a State home.

(i) A grant for expansion, remodeling, or alteration of an existing State home, which is on or eligible for inclusion in the National Register of Historic Places, for furnishing domiciliary, nursing home, or adult day health care to veterans may not be awarded for the expansion, remodeling, or alteration of such building if such action does not comply with National Historic Preservation Act procedures or if the total cost of remodeling, renovating, or adapting such building or facility exceeds the cost of comparable new construction by more than five percent. If demolition of an existing building or facility on, or eligible for inclusion in, the National Register of Historic Places is deemed necessary and such demolition action is taken in compliance with National Historic Preservation Act procedures, any mitigation cost negotiated in the compliance process and/or the cost to professionally record the building or facility in the Historic American Buildings Survey (HABS), plus the total cost for

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demolition and site restoration, shall be included by the State in calculating the total cost of new construction.

(j) The cost of demolition of a building cannot be included in the total cost of construction unless the proposed construction is in the same location as the building to be demolished or unless the demolition is inextricably linked to the design of the construction project.

(k) With respect to the final award of a conditionally-approved grant, the Secretary may not award a grant for an amount that is 10 percent more than the amount conditionally-approved.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.90 Line item adjustments to grants.

After a grant has been awarded, upon request from the State representative, VA may approve a change in a line item (line items are identified in Form 424C which is set forth in § 59.170(o) of this part) of up to 10 percent (increase or decrease) of the cost of the line item if the change would be within the scope or objective of the project and would not change the amount of the grant.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.100 Payment of grant award.

The amount of the grant award will be paid to the State or, if designated by the State representative, the State home for which such project is being carried out or any other State agency or instrumentality. Such amount shall be paid by way of reimbursement, and in such installments consistent with the progress of the project as the Chief Consultant, Geriatrics and Extended Care, may determine and certify for payment to the appropriate Federal institution. Funds paid under this section for an approved project shall be used solely for carrying out such project as so approved. As a condition for the final payment, the State must comply with the requirements of this part based on an architectural and engineering inspection approved by VA, must obtain VA approval of the final equipment list submitted by the State representative, and must submit to VA

a completed VA Form 10–0388–13 (this form is available on the internet Web site provided in § 59.170). The equipment list and the completed VA Form 10–0388–13 must be submitted to the Chief Consultant, Geriatrics and Extended Care (114), VHA Headquarters; 810 Vermont Avenue, NW.; Washington, DC 20420.

Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137

[73 FR 58880, Oct. 8, 2008]

§ 59.110 Recapture provisions.

If a facility for which a grant has been awarded ceases to be operated as a State home for the purpose for which the grant was made, the United States shall be entitled to recover from the State which was the recipient of the grant or from the then owner of such construction as follows:

(a) If less than 20 years has lapsed since the grant was awarded, and VA provided 65 percent of the estimated cost to construct, acquire or renovate a State home facility principally for furnishing domiciliary care, nursing home care, adult day health care, hospital care, or non-institutional care to veterans, VA shall be entitled to recover 65 percent of the current value of such facility (but in no event an amount greater than the amount of assistance provided for such under these regulations), as determined by agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated.

(b) Based on the time periods for grant amounts set forth below, if VA provided between 50 and 65 percent of the estimated cost of expansion, remodeling, or alteration of an existing State home facility, VA shall be entitled to recover the amount of the grant as determined by agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated:

Grant amount (dollars in thousands)	Recovery period (in years)
0–250	7
251–500	8
501–750	9
751–1,000	10
1,001–1,250	11